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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 DAisha Parks,

10 Plaintiff,

11 v.

12 Westlake Financial,

13 Defendant.
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No. CV-19-02481-PHX-DWL

ORDER

15 Pending before the Court is the parties’ stipulation (Doc. 10), which states that the
16 parties agree that Plaintiff’s claims must “be resolved by way of arbitration” and thus asks
17 the Court to issue an order staying “[t]he Federal proceeding . . . pending the outcome of
18 the arbitration.” (*Id.*)

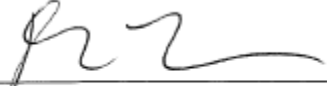
19 The Court is disinclined to accept this stipulation. When faced with a valid and
20 enforceable arbitration provision, a district court has discretion to either (1) dismiss the
21 case without prejudice or (2) stay the case pending the completion of the arbitration. *See,*
22 *e.g., Kam-Ko Bio-Pharm Trading Co. Ltd-Australasia v. Mayne Pharma*, 560 F.3d 935,
23 940 (9th Cir. 2009); *Sparling v. Hoffman Const. Co.*, 864 F.2d 635, 638 (9th Cir. 1988). It
24 is this Court’s usual practice to exercise its discretion to choose the former option—
25 dismissal without prejudice—in this circumstance. *Cf. Altela Inc. v. Ariz. Science & Tech.*
26 *Enterprises, Inc.*, 2016 WL 4539949, *8 (D. Ariz. 2016) (“[A]ll of Altela’s claims are
27 subject to mandatory arbitration. The Court will dismiss this case rather than staying it.”).
28 ...

1 Accordingly, the parties are ordered to show cause why this case should not be
2 dismissed without prejudice in light of their agreement to arbitrate. To do so, the parties
3 may jointly file a brief, not to exceed five (5) pages, by August 26, 2019 that explains why
4 a stay (rather than dismissal without prejudice) is necessary and appropriate here.

5 Accordingly, **IT IS ORDERED** that:

- 6 (1) The parties' stipulation (Doc. 10) is **accepted in part and rejected in part**;
7 (2) The parties may jointly file a brief, not to exceed five (5) pages, by **August**
8 **26, 2019** that explains why a stay (rather than dismissal without prejudice) is necessary and
9 appropriate here; and
10 (3) If the parties do not file such a brief, the Clerk of Court shall dismiss this
11 case without prejudice on August 27, 2019 and enter judgment accordingly.

12 Dated this 19th day of August, 2019.

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17 Dominic W. Lanza
18 United States District Judge
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